

STATE OF INDIANA	)		IN THE ALLEN SUPERIOR COURT
	)	SS:	
COUNTY OF ALLEN	)		CAUSE NO. _____
BENITA JOHNSON,	)		
	)		
Plaintiff,	)		
	)		
v.	)		
	)		
AMERICAN SENIOR	)		
COMMUNITIES, LLC,	)		
	)		
Defendant.	)		

### COMPLAINT

Plaintiff alleges against Defendant that:

1. The Plaintiff is Benita Johnson who alleges that she was discriminated against, suffered a hostile work environment, and terminated because of her race and color (African American/Black) in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* and 42 U.S.C. § 1981, as set forth in the attached Charge of Discrimination, No. 24D-2022-00140, attached hereto, made a part hereof, and incorporated herein as Exhibit "A". The EEOC issued a Dismissal and Notice of Rights to Sue on October 13, 2022 (Exhibit "B") and this Complaint has been filed within ninety (90) days after receipt thereof.
2. The Defendant is American Senior Communities, LLC ("ASC"), a corporation authorized to do business in the State of Indiana, and does so operating as "Heritage Park" at 901 Chestnut Hills Parkway, Fort Wayne, Indiana 46814. Defendant's Registered Agent is Teresa C. Williams, 6900 S. Gray Road, Indianapolis, Indiana 46237. Defendant is an "employer" for purposes of Title VII and was required to treat

minorities the same with respect to the benefits, terms, conditions, and privileges of employment pursuant to 42 U.S.C. § 1981.

3. Plaintiff alleges that she was discriminated against and discharged as a result of the allegations set forth in the attached Charge of Discrimination (Exhibit “A”).
4. Because the hostile work environment became so intolerable and hellish, Plaintiff was constructively discharged on or about December 18, 2021.
5. Plaintiff worked as a Nurse for Defendant beginning around September 11, 2021 and resigned (constructively discharged) on December 13, 2021. On December 12, 2021, there was a verbal altercation between Plaintiff and a Caucasian Nurse, Evelyn Stinson, regarding the care that was being provided to a resident. Plaintiff alleges that she was being treated disrespectful and discriminated against by Stinson because of her race (Stinson accused Plaintiff of providing bad care to a resident). Plaintiff reported the incident to her supervisor as racially motivated.
6. Plaintiff also reported the incident to the Indiana Department of Health and alleged that there had been a negligent delay of treatment to a resident.
7. Plaintiff reported to Defendant that she was being harassed because of her race. Plaintiff’s allegations of racial harassment were not remedied or corrected. The harassment included a Caucasian Nurse confronting and shouting at her, using profanity towards her, and accusing her of providing poor care to residents. Plaintiff felt violated and feared for her safety, and requested that Defendant move her to another unit. Defendant refused, and Plaintiff could not continue to work in the hellish environment created by Nurse Stinson, and she had no choice but to resign.

8. As a result of the intentional actions of the Defendant, Plaintiff suffered the loss of her job and job-related benefits including income. Plaintiff also suffered emotional distress, mental anguish, humiliation, embarrassment, inconvenience, and other damages and injuries for which she seeks compensatory damages. Plaintiff also seeks punitive damages.

WHEREFORE, Plaintiff prays for judgment against the Defendant for compensatory damages, pecuniary damages, punitive damages, reasonable attorney's fees and costs, and for all other just and proper relief in the premises.

**JURY DEMAND**

Pursuant to Rule 38 of the Indiana Rules of Trial Procedure, Plaintiff demands a trial by jury in this action.

Respectfully submitted,

**MYERS SMITH WALLACE, LLP**

/s/Christopher C. Myers  
Christopher C. Myers, #10043-02  
809 South Calhoun Street, Suite 400  
Fort Wayne, IN 46802  
Telephone: (260) 424-0600  
Facsimile: (260) 424-0712  
E-mail: cmyers@myers-law.com  
Counsel for Plaintiff

EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.	Charge Presented To: Agency(ies) Charge No(s): EEOC 24D-2022-00140 FEPA EO-0084-A22
<b>Fort Wayne Metropolitan Human Relations Commission</b> and EEOC State or local Agency, if any	

Name (Indicate Mr., Ms., Mrs.) Benita Johnson	Home Phone (248) 342-2372	Year of Birth 1972
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Street Address 2240 Muscoday Pass Fort Wayne, IN 46809
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Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name American Senior Communities	No. Employees, Members 501+ Employees	Phone No. (260) 484-9557
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Street Address 901 Chestnut Hills Pkwy Fort Wayne, IN 46814
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Name	No. Employees, Members	Phone No.
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Street Address
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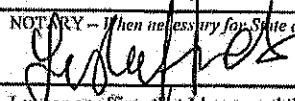
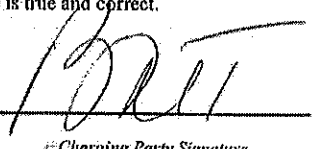
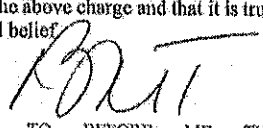
DISCRIMINATION BASED ON  Race	DATE(S) DISCRIMINATION TOOK PLACE Earliest 12/18/2021 Latest 12/18/2021
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THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I am a qualified, black, individual who worked for American Senior Communities (ASC) since September 11, 2021 as an LPN. On December 11, 2021, my co-worker Evelyn Stinson (Stinson) accused me of causing a residents death. Stinson made negative comments about me in front of coworkers. On December 15th, I let ASC know that I felt I was being harassed by Stinson because of my race, black. My harassment concerns were not addressed. The harassment from Stinson created such intolerable working conditions that I resigned on December 18, 2021. For these reasons I feel I have been harassed and constructively discharged based on my race, black in violation of Title VII of the Civil Rights Act of 1964, as amended, and Fort Wayne Ordinance G-21-78 as amended.



LESLIE HERNANDEZ, Notary Public  
 Allen County, State of Indiana  
 Commission Number NP0723374  
 My Commission Expires October 31, 2027

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.	NOTARY - When necessary for State and Local Agency Requirements 
I declare under penalty of perjury that the above is true and correct. 3/1/22  Charging Party Signature	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year) 3/1/22

Ex. A





## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Indianapolis District Office  
101 West Ohio St., Suite 1900  
Indianapolis, IN 46204  
(317) 999-1178  
Website: [www.eeoc.gov](http://www.eeoc.gov)

### **DETERMINATION AND NOTICE OF RIGHTS**

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 10/13/2022

Charge No. 24D-2022-00140

To: Benita Johnson  
2240 Muscoday Pass  
Fort Wayne, IN 46809

EEOC Representative

Jeremy Sells  
State, Local & Tribal Coordinator  
(463) 999-1161

### **DETERMINATION OF CHARGE**

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated your charge.

### **NOTICE OF YOUR RIGHT TO SUE**

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file suit based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission,

Digitally Signed By: Michelle Eisele 10/13/2022

Michelle Eisele  
District Director

cc: On following page

Please retain this notice for your records.

Ex. B